

**REMARKS/ARGUMENT**

Claims 1-40 are pending in this application. Claims 1-25 stand rejected. By this Amendment, claims 1-25 have been amended. The amendments made to claims 1-25 do not alter the scope of these claims, nor have these amendments been made to define over the prior art. Rather, the amendments to claims 1-25 have been made to improve the form thereof. In light of the amendments and remarks set forth below, Applicant respectfully submits that each of the pending claims is in immediate condition for allowance.

Claims 1-25 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,933,781 ("the '781 patent").

To anticipate a claim under 35 U.S.C. § 102, the cited reference must disclose every element of the claim, as arranged in the claim, and in sufficient detail to enable one skilled in the art to make and use the anticipated subject matter. See PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d 1558, 1566 (Fed. Cir. 1996); C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1349 (Fed. Cir. 1998). A reference that does not expressly disclose all of the elements of a claimed invention cannot anticipate unless all of the undisclosed elements are inherently present in the reference. See Continental Can Co. USA v. Monsanto Co., 942 F.2d 1264, 1268 (Fed. Cir. 1991).

**INDEPENDENT CLAIM 1**

Among the limitations of independent claim 1, which are neither shown nor suggested in the art of record are a method of adjusting power in a CDMA terminal that (i) generates base band signals by spreading data over every channel; (ii) adjusts the levels of the base band signals for every code channel; (iii) adds the adjusted base band signals over the plurality of code channels; and (iv) modulates the signal after addition to generate a high frequency signal.

In Applicant's claimed method data is first spread over every code channel. The base band signal level is then adjusted prior to adding these signals adding the adjusted

base band signal to the plurality of code channels. The processed signal is then modulated to generate a high frequency signal.

The method and apparatus disclosed by the '781 patent is unlike the above claimed method. As disclosed in the '781 patent, data 10 is encoded by encoder 12. Traffic channel modulator 16 modulates the encoded data with a traffic channel code to generate traffic channel symbols 18. Additionally, traffic channel modulator 16 increases or decreases the gain of the traffic channel. The pilot channel modulator 70 generates pilot channel symbols 22 and adjusts the amplitude of the pilot channel in response to channel gain adjust command 62. Similarly, power control channel modulator 72 generates power control symbols 74 and adjusts the amplitude of power control symbols 74 in response to channel gain adjust command 62. Summer 20 sums traffic channel symbols 18 with pilot channel symbols 22 and power control symbols 74 to generate summed symbols 24. Finally, spreader 26 modulates summed symbols 24 to generate spread data 28. Modulators 16, 17, and 73 modulate signals they do not spread as suggested by the Office Action. Clearly, this is unlike Applicant's explicitly claimed method wherein the base band signals are spread over every channel prior to modulating the signal to generate a high frequency signal.

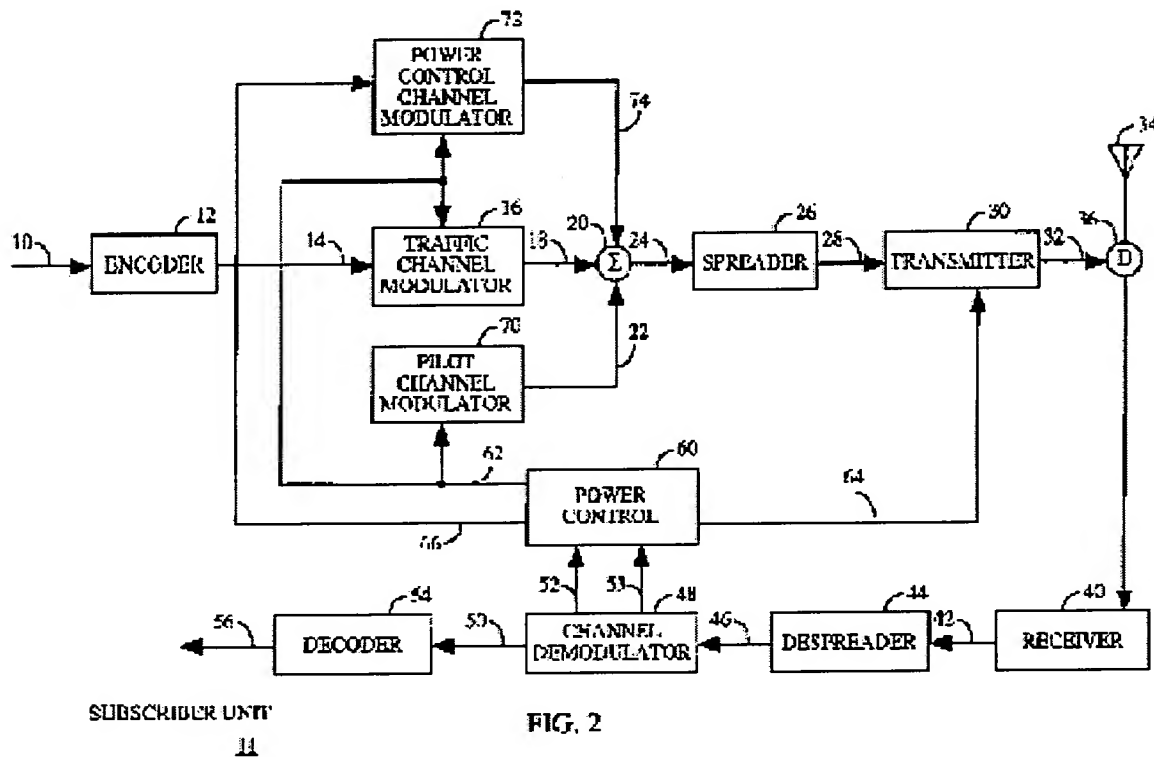
Claims 2-8 and 25 depend from, and contain all the limitations of claim 1. These dependent claims also recite additional limitations which, in combination with the limitations of claim 1, are neither disclosed nor suggested by the '781 patent and are also believed to be directed towards the patentable subject matter. Thus, claims 2-8 and 25 should also be allowed.

#### **INDEPENDENT CLAIM 9**

Among the limitations of independent claim 9, which are neither shown nor suggested in the art of record are (i) a plurality of spreading means for each code channel and (ii) a modulator for modulating the output from an adder.

In Applicant's claimed circuit, the data from a signal source is spread by a plurality of spreading means. The outputs from the spreading means are added and then modulated to create a high frequency signal.

The circuit disclosed in the '781 patent is unlike Applicant's explicitly claimed circuit. The circuit disclosed in the '781 patent is reproduced below.



As clearly shown, the circuit disclosed in the '781 patent modulates the signal 10, after it is encoded by encoder 12. Several modulated signals including a pilot channel, traffic channel, and power control channel are then added together. At this point in the circuit spreader 26 generates the spread data. Modulators 70, 73 and 16 do not perform spreading as suggested in the Office Action. This function is clearly performed by spreader 26. This is unlike Applicants claimed circuit wherein the signals are spread prior to modulation.

Claims 10-18 depend from, and contain all the limitations of claim 9. These dependent claims also recite additional limitations which, in combination with the limitations of claim 9, are neither disclosed nor suggested by the '781 patent and are also believed to be directed towards the patentable subject matter. Thus, claims 10-18 should also be allowed.

### INDEPENDENT CLAIM 19

Among the limitations of independent claim 19, which are neither shown nor suggested in the art of record are (i) a plurality of spreading means for each code channel and (ii) a modulator for modulating the output from an adder.

In Applicant's claimed circuit, the data from a signal source is spread by a plurality of spreading means. The outputs from the spreading means are added and then modulated to create a high frequency signal.

As clearly shown in Figure 2 reproduced above, the circuit disclosed in the '781 patent modulates the signal 10, after it is encoded by encoder 12. Several modulated signals including a pilot channel, traffic channel, and power control channel are then added together. Modulators 16, 70 and 73 do not perform any spreading, they only modulate the signals input to them. At this point in the circuit spreader 26 generates the spread data. This is unlike Applicants claimed circuit wherein the signals are spread prior to modulation.

Claims 20-24 depend from, and contain all the limitations of claim 19. These dependent claims also recite additional limitations which, in combination with the limitations of claim 19, are neither disclosed nor suggested by the '781 patent and are also believed to be directed towards the patentable subject matter. Thus, claims 20-24 should also be allowed.



Therefore, it is asserted that the rejection of claims 1-25 under 35 U.S.C. § 102 has been overcome. Reconsideration of the rejection of claims 1-25 under 35 U.S.C. § 102 is respectfully requested in light of the amendments and remarks above.

Applicant has responded to all of the rejections and objections recited in the Office reconsideration and Notice of Allowance for all of the pending claims is therefore respectfully requested.

The amendments to the claims are for clarification purposes only and are not intended to limit the scope of the claims in any way. It is asserted that the present amendment places the application in a form for allowance. Entry of this amendment is therefore earnestly solicited.

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

Dated: September 25, 2002

Respectfully submitted,

By 

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